

Statement of
Representative Edward J. Markey (D-MA)
Ranking Democrat, Subcommittee on
Telecommunications and the Internet
Oversight Hearing on Cable Competition Issues
July 13, 2004

Good Morning. I want to commend Chairman Upton for calling this hearing today on cable competition issues as this Subcommittee has a longstanding interest in promoting competition in the video marketplace for the benefit of consumers.

The backdrop for all our discussions this morning is the reality that cable rates continue to rise each year. This has been the case since the 1992 Cable Act's consumer rate protection rules, which saved consumers over \$3 Billion from 1993 to 1995, were eliminated by Congress in the Telecommunications Act of 1996. These consumer rate protections were removed based upon the faulty premise that full blown price competition would arise – primarily from the telephone industry.

During House floor debate on the 1996 Telecomm Act, I offered an amendment which sought to prohibit the elimination of the consumer rate protections *until* a telephone company *had actually arrived in town* to provide competing video services to subscribers within that franchise area. The Markey consumer rate protection amendment failed, and in the absence of any widespread assault on cable markets from the telephone industry, cable rates have steadily, and annually, risen at a pace far in excess of the rate of inflation.

It is true that the cable industry in the last several years has also made significant investments in upgrading their facilities. It is true as well that cable has deployed broadband service and forced the phone industry and others to respond. It is also true that more and more cable operators are entering the voice marketplace and offering consumers savings on their phone bills.

Yet it remains true that many consumers continue to complain about rising cable rates, lack of choice, and that channels they don't want are forced upon them. When questioned about why rates continue to go up, operators typically point to increases in programming costs.

The cable programming marketplace is highly concentrated. The number of cable channels truly independent of cable operators or television networks is a paltry few. The biggest problem, from a public policy standpoint, is that there doesn't appear to be any near term competition that will emerge to keep a check on consumer rates, and there doesn't appear to be any end in sight to annual programming rate increases either. That's not a good situation.

Proposals have recently emerged to explore the possibility of offering cable channels on an *a la carte* basis as a way of addressing the dysfunction and concentration in the cable programming marketplace. Mandating an *a la carte* option for all cable operators for all cable consumers may not be a panacea. As opposed to an *a la carte* mandate, permitting certain cable operators to voluntarily experiment and try a la carte offerings strikes me as the best way to find the right answer.

When *a la carte* was offered as an amendment in this Subcommittee during consideration of the 1992 Cable Act I opposed it. I did so in part because of concerns that such a proposal would adversely affect the ability to have a great diversity of programming, with the independent editorial voices of minority programmers, foreign language programmers, and other less powerful voices in the media mix struggling to get onto cable. We now have a 12 year track record to assess and while there have been some successes in getting diversity on the cable tier, over all, such voices, when they exist, still tend to be owned and controlled by the same large programmers who seem to dominate the cable dial.

Today, some of the voices of diversity are calling for an experiment with a la carte in order to foster diversity in the cable marketplace. This is a complex issue. Not everyone will agree on answers to certain problems and there appear to be no easy answers or short-term solutions. But these issues need greater attention and examination because the current system isn't working well. Again, I commend the Chairman for calling this excellent hearing and I urge him to call further hearings on these subjects in the future.

